

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DIWON WHITE,

No. C-14-4386 EMC (pr)

Petitioner,

v.

**ORDER OF DISMISSAL**

JEFFREY BEARD,

Respondent.

Petitioner filed an “application for leave to file second or successive petition under 28 U.S.C. § 2254” in the Eastern District of California. That court mistakenly viewed the document as a habeas petition, and transferred it to the Northern District of California because it pertained to Petitioner’s conviction in Contra Costa County Superior Court, which is within the venue of the Northern District of California. An application for leave to file a second or successive petition under 28 U.S.C. § 2254 must be filed in the Ninth Circuit, and the Ninth Circuit must grant permission for a second or successive petition to be filed in the district court before the district court can entertain such a petition. *See* 28 U.S.C. § 2244(b)(3). Therefore, this action is DISMISSED because the application was filed in the wrong court and because this Court lacks authority to entertain a second

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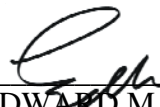
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1 or successive petition until the Ninth Circuit issues an order permitting it to do so. The Court will  
2 not direct that the application be sent to the Ninth Circuit because Petitioner already has an  
3 application pending in that court. *See White v. Rackley*, Ninth Circuit Case No. 14-72895.

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5 IT IS SO ORDERED.

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7 Dated: November 12, 2014

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10 EDWARD M. CHEN  
11 United States District Judge  
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